

Message Text

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PARIS ALSO FOR USOECD
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E. O. 11652: N/A
TAGS: EWWT, PORG, IMCO
SUBJECT: IMCO: COUNCIL RESPONSE TO FRENCH REQUESTS
FOR ACTIONS TO PREVENT RECURRENCE OF
AMOCO CADIZ-TYPE DISASTERS

1. SUMMARY. AT 40TH SESSION OF IMCO COUNCIL,
FRANCE REQUESTED COUNCIL TO TAKE SEVERAL ACTIONS
TO PREVENT OR AMELIORATE RECURRENCE OF DISASTERS
SUCH AS MARCH 17 AMOCO CADIZ CASUALTY. COUNCIL
APPROVED EARLIER ACTIONS AND RECOMMENDATIONS OF
MARITIME SAFETY (MSC) AND MARINE ENVIRONMENT PRO-
TECTION (MEPC) COMMITTEES AND INSTRUCTED LEGAL
COMMITTEE TO UNDERTAKE CERTAIN PROJECTS REQUESTED
BY FRANCE. LATTER INCLUDE DEVELOPING RECOMMENDATIONS
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FOR IMPROVEMENTS IN LIABILITY CONVENTIONS AND 1910
ASSISTANCE AND SALVAGE CONVENTION. FRENCH REQUEST
FOR AD HOC WORKING GROUP TO CONSIDER RELATIONSHIPS:
BETWEEN MASTER/ OWNER; BETWEEN OWNER/MARITIME AD-
MINISTRATION; AND BETWEEN MASTER/MARITIME ADMINISTRA-
TION WAS A MORE DIFFICULT MATTER, ALTHOUGH COUNCIL'S
WORK WAS EASED BY FACT THAT FRANCE BACKED OFF FROM

EARLIER EXPLICIT EMPHASIS ON "FLAGS OF CONVENIENCE" ISSUE AND FROM PROPOSAL THAT IMCO SHOULD DEFINE ELEMENTS OF "GENUINE LINK" BETWEEN VESSEL AND FLAG. AFTER CONSIDERABLE DEBATE, COUNCIL AUTHORIZED ESTABLISHMENT OF WORKING GROUP, WHOSE TERMS OF REFERENCE ARE PHRASED IN NONDISCRIMINATORY MANNER AND INCLUDE CAVEATS AGAINST GROUP'S GETTING INTO AREAS WHICH ARE RESPONSIBILITY OF OTHER UN ORGANIZATIONS (E.G., UNCTAD AND LOS). END SUMMARY

2. FRENCH DEL (LOGEROT) MADE ELOQUENT PLEA AT IMCO COUNCIL FOR FURTHER ACTION BY IMCO TO PREVENT RECURRENCE AND AMELIORATE CONSEQUENCES OF AMOCO CADIZ-TYPE DISASTERS. LOGEROT PREFACED PROPOSALS WITH APOLOGIES FOR LATE PRESENTATION OF FRENCH PROPOSALS, THANKS TO SECGEN AND ORGANIZATION STAFF FOR ATTENTION TO FRENCH PROBLEMS, AND PRAISE FOR SPEED OF IMCO RESPONSE TO AMOCO CADIZ CASUALTY.

3. LOGEROT FIRST DESCRIBED NEW ROUTING SCHEMES OFF USHANT AND CASQUETS APPROVED BY MARITIME SAFETY COMMITTEE (MSC) AND ANNOUNCED THAT FRANCE AND U.K. HAVE AGREED SCHEMES WILL ENTER INTO FORCE JANUARY 1, 1979. FRANCE AND U.K. WILL ASK IMCO SECGEN TO CIRCULATE OFFICIAL NOTICE OF SCHEMES. LOGEROT ALSO DESCRIBED MSC APPROVAL OF NEW REPORTING SCHEME LIMITED OFFICIAL USE

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FOR SHIPS APPROACHING ENGLISH CHANNEL; HE INFORMED COUNCIL THAT GOF AND HMG HAVE STARTED STUDYING SCHEME IN DETAIL AND HAVE REACHED AGREEMENT IN PRINCIPLE ON A NUMBER OF ASPECTS. FRANCE AND U.K. ARE STUDYING MATTER OF SHIP SIGNALING AND SPECIAL NAVIGATION SYSTEMS IN CONJUNCTION WITH SCHEMES AND EXPECT TO PLACE RECOMMENDATIONS BEFORE JULY 31-AUGUST 4 MEETING OF SUBCOMMITTEE ON SAFETY OF NAVIGATION.

4. LOGEROT THEN NOTED THAT FRANCE HAD MADE CERTAIN PROPOSALS TO MSC, MEPC, AND LEGAL COMMITTEE AND URGED COUNCIL TO APPROVE RESULTING RECOMMENDATIONS OF MSC AND MEPC (EVEN THOUGH COUNCIL COULD NOT APPROVE MOST RECENT REPORTS OF MSC AND MEPC IN THEIR ENTIRETY DUE TO RECENCY OF MEETINGS) AND GIVE NECESSARY INSTRUCTIONS TO LEGAL COMMITTEE. MSC HAD RECOMMENDED STUDY OF CERTAIN DESIGN AND EQUIPMENT QUESTIONS (DUPLICATION OF STEERING GEAR, PROPULSION UNIT, AND ELECTRICAL POWER PLANT) AND REVIEW BY SUBCOMMITTEE ON RADIO COMMUNICATIONS OF TECHNICAL ASPECTS OF RECEPTION AND USE OF EQUIPMENT

FAILURE REPORTS. MSC HAD ALSO AGREED TO RECONSIDER MEANS OF CONTROLLING SUBSTANDARD SHIPS. LOGEROT ALSO CALLED ATTENTION TO MEPC RECOMMENDATION THAT

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DEFINITION OF OBLIGATION TO REPORT EQUIPMENT FAILURES CONTAINED IN 1973 MARPOL PROTOCOL BE BROADENED. FRENCH REQUESTS OF LEGAL COMMITTEE WERE: A) EXAMINATION OF LEGAL ASPECTS OF REPORTS ON INCIDENTS LIKELY TO INVOLVE MAJOR HAZARDS; B) RECOMMENDATIONS FOR IMPROVEMENT OF PROVISIONS OF LIABILITY CONVENTIONS; AND C) EXAMINATION OF DEFECTS OF, AND IMPROVEMENTS NEEDED IN, 1910 ASSISTANCE AND SALVAGE CONVENTION. FRANCE REQUESTED THAT NEXT SESSION OF LEGAL COMMITTEE CONSIDER ASSISTANCE AND SALVAGE CONVENTION AND PROMISED TO SUBMIT PRELIMINARY VIEWS TO THAT SESSION.

5. LOGEROT CONCLUDED BY ASKING IMCO TO STUDY RELATIONSHIPS: BETWEEN MASTER/OWNER; BETWEEN OWNER/MARITIME ADMINISTRATION; AND BETWEEN MASTER/MARITIME

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ADMINISTRATION OF FLAG STATE IN ACCORDANCE WITH A PAPER FRENCH DEL HAD SUBMITTED EARLY IN THE WEEK. LOGEROT STRESSED THAT IT WAS NOT FRANCE'S INTENTION TO CHALLENGE ANY PARTICULAR FLAG OR COUNTRY OR TO STIMULATE DISCUSSION IN IMCO OF ECONOMIC AND FINANCIAL ASPECTS OF SHIPS' REGISTRY, BUT HE MAINTAINED THAT METHODS OF REGISTRY DO HAVE RELATIONSHIP WITH SAFETY AND POLLUTION CONTROL. FRANCE ASKED FOR ESTABLISHMENT OF AD HOC WORKING GROUP OF COUNCIL WHICH WOULD STUDY THREE AREAS:
A) RELATIONSHIP BETWEEN MASTER AND SHIOPWNER AND METHODS OF INSURING THAT MASTER IS FREE TO TAKE NECESSARY SAFETY MEASURES WITHOUT BEING RESTRAINED BY OWNER'S FINANCIAL CONCERNS;
B) RELATIONSHIP BETWEEN SHIP OWNER AND MARITIME ADMINISTRATION OF FLAG STATE AND METHODS OF ASSURING THAT ADMINISTRATION EXERCISES EFFECTIVE CONTROL AS DEFINED IN IMCO CONVENTIONS;
C) RELATIONSHIP BETWEEN MASTER AND ADMINISTRATION, INCLUDING BOTH PENALTIES FOR NEGIGENT MASTERS AND SAFEGUARDS FOR MASTERS WHO TAKE SAFETY MEASURES OF POSSIBLE FINANCIAL DISADVANTAGE TO OWNERS.
FRANCE ARGUED THAT SINCE SUBJECT EMBRACED LEGAL, TECHNICAL, AND INSTITUTIONAL MATTERS, NO EXISTING IMCO BODY COULD HANDLE IT AND SPECIAL WORKING GROUP WOULD BE NEEDED. FRENCH ORAL PRESENTATION OMITTED ANY MENTION OF PARAGRAPH IN FRENCH PAPER WHICH PROPOSED THAT IMCO DEFINE ELEMENTS OF "GENUINE LINK" BETWEEN FLAG AND VESSEL. (USDEL HAD EXPRESSED CONCERN BEFOREHAND TO FRENCH OVER EFFORTS TO INVOLVE IMCO IN THIS HIGHLY CONTENTIOUS ISSUE.)
FRENCH PRESENTATION ALSO AVOIDED USE OF TERM, "FLAGS OF CONVENIENCE", AS HAD TEXT OF MOST RECENT

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FRENCH PAPER.

6. WITHOUT DEBATE, COUNCIL APPROVED MSC AND MEPC ACTIONS AND RECOMMENDATIONS OF CONCERN TO FRANCE AND INSTRUCTED LEGAL COMMITTEE TO UNDERTAKE ON URGENT BASIS THE THREE PROJECTS REQUESTED BY FRANCE. USDEL MADE STATEMENT SUPPORTING THESE ACTIONS, BUT NOTED THAT ONE MATTER ALREADY ON LEGAL COMMITTEE AGENDA, LIABILITY AND COMPENSATION

REGIME FOR HAZARDOUS SUBSTANCES OTHER THAN OIL, SHOULD
CONTINUE TO RECEIVE HIGH PRIORITY ATTENTION. FRANCE
AGREED WITH LATTER POINT.

7. PROPOSAL FOR WORKING GROUP, HOWEVER, STIMULATED
CONSIDERABLE DEBATE. A FEW DELEGATIONS (FRG,
LIBERIA) QUESTIONED WHETHER WORKING GROUP NECESSARY,
ARGUING THAT LEGAL COMMITTEE COMPETENT TO CONSIDER
PROPOSED SUBJECT MATTER. IN VIEW OF GENERAL STRONG
SYMPATHY FOR FRANCE, HOWEVER, MOST DELEGATIONS DID
NOT WISH TO OPPOSE FRENCH REQUEST, AND COUNCIL
DECIDED TO AUTHORIZE ESTABLISHMENT OF WORKING
GROUP. USDEL STATED THAT FRENCH PROPOSAL, AS
ELABORATED IN ORAL PRESENTATION, APPEARED REASONABLE
AND THAT U.S. BELIEVED PROPOSED STUDIES COULD BE OF
BENEFIT TO ALL COUNTRIES, PROVIDED THAT WORKING
GROUP APPROACHED ITS SUBJECTS FROM POINT OF VIEW
OF SAFETY AND POLLUTION CONTROL, LIMITED ITSELF
TO AREAS WITHIN IMCO'S COMPETENCE, AND RESPECTED
DIVISION OF RESPONSIBILITIES BETWEEN IMCO AND OTHER
UN ORGANIZATIONS.

8. FORMULATION OF TERMS OF REFERENCE FOR WORKING
GROUP PROVED DIFFICULT. AFTER SOME DEBATE, COUNCIL
ESTABLISHED SMALL DRAFTING GROUP CHAIRED BY U.K.
(USDEL ALSO PARTICIPATED). DRAFTING GROUP EVENTUALLY

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CAME UP WITH TERMS WHICH COMBINED TWO DRAFTS SUBMITTED BY U.K. AND FRANCE AND WHICH CONSISTED, FOR MOST PART, OF NEUTRALLY-PHRASED AUTHORIZATION FOR WORKING GROUP TO STUDY THREE FRENCH-PROPOSED RELATIONSHIPS AND WHICH INSTRUCTED GROUP TO OBSERVE DIVISION OF RESPONSIBILITIES WITH OTHER ORGANIZATIONS. GREATEST DIFFICULTY AROSE OVER ONE PHRASE, "TAKING INTO ACCOUNT THE PRACTICE OF FREE REGISTRATION", WHICH MOST DELEGATIONS CONSIDERED TO HAVE UNDESIRABLE DISCRIMINATORY IMPLICATIONS. ALTHOUGH FRENCH DEL INITIALLY AGREED TO DELETE THIS PHRASE, SOVIET DEL REPEATEDLY INSISTED ON ITS RETENTION (THEREBY REVIVING FRENCH INTEREST IN PURSUING MATTER). MATTER WAS THEREFORE REFERRED TO COUNCIL FOR DECISION. AFTER EXTENDED DEBATE, COUNCIL DROPPED REFERENCE TO "FREE REGISTRATION" AND SUBSTITUTED MORE NEUTRAL FORMULA-
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TION PROPOSED BY FRANCE AND AMENDED BY U.K. AND U.S. DELS. THIS FORMULATION WOULD AUTHORIZE WORKING GROUP TO "STUDY WHETHER, AND TO WHAT EXTENT, THESE MATTERS ARE LINKED TO THE REGISTRATION OF SHIPS." WORKING GROUP WILL BE OPEN TO ALL MEMBERS OF IMCO AND IS INSTRUCTED TO MAKE RECOMMENDATIONS TO 42ND SESSION OF COUNCIL (SPRING, 1979). FIRST MEETING WILL PROBABLY BE HELD IN SEPTEMBER 1978.

9. AT CONCLUSION OF COUNCIL SESSION, FRANCE REPORTED ON STATUS OF ITS INQUIRY INTO AMOCO CADIZ CASUALTY. FRENCH DEL EXPLAINED REASONS FOR SECRECY (PROTECTION OF RIGHTS OF DEFENDANT AND OF INDEPENDENCE OF EXAMINING MAGISTRATE) AND HENCE FOR ITS REJECTION OF LIBERIAN REQUEST TO OBSERVE, NOTING THAT IT SIMPLY HAD NOT BEEN POSSIBLE UNDER FRENCH LAW TO ALLOW LIBERIAN OBSERVER. SECOND PHASE OF INVESTIGATION WILL BE OPEN PUBLIC ADJUDICATION HEARING, WHICH WILL PROBABLY BEGIN IN AUTUMN, 1978. FRENCH DEL ASSURED

LIBERIANS THAT MASTERS OF AMOCO CADIZ AND TUGBOAT
WOULD BE RELEASED IN TIME TO APPEAR AS REQUESTED
BEFORE LIBERIAN BOARD OF INQUIRY ON JUNE 12. RE-
GARDING LIBERIAN REQUEST FOR DOCUMENTS, FRENCH DEL
STATED THAT EXAMINING MAGISTRATE HAD PROVIDED ALL
REQUESTED DOCUMENTS WHICH WERE IN HIS DOSSIER;
CERTAIN DOCUMENTS (E.G., ENGINE ROOM LOG BOOK AND
RADIO MESSAGE LOG) COULD NOT BE PROVIDED, HOWEVER,
SINCE THEY HAD BEEN LOST WITH THE SHIP. FRENCH
DEL STATED SECRECY REQUIREMENTS PRECLUDED GIVING
COUNCIL ANY DETAILS OF INQUIRY BUT PROMISED TO
PROVIDE FULL REPORT ONCE SECRET STAGE COMPLETED.

10. COMMENT: USDEL BELIEVES COUNCIL ACTION ON
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FRENCH REQUESTS IS SUFFICIENTLY RESPONSIVE TO FRANCE
WHILE AVOIDING STEPS WHICH COULD BE HARMFUL TO IMCO
OR TO U.S. INTERESTS. NEUTRAL PHRASING OF TERMS
OF REFERENCE FOR WORKING GROUP AND CAVEATS IT
CONTAINS CONCERNING RESPONSIBILITIES OF OTHER
ORGANIZATIONS SHOULD ENABLE U.S. AND LIKE-MINDED
MEMBERS TO INSURE THAT ACTIVITIES OF NEW GROUP DO
NOT INVOLVE IMCO IN FRUITLESS DEBATE ON UNCTAD-TYPE
POLITICAL AND ECONOMIC ISSUES OR DIVERT IMCO FROM
ITS BASIC CONCENTRATION ON SUBSTANDARD SHIPS.

11. USDEL SENDS.

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